IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 65 OF 2007

DHANESH H. GHADIALI & ANR. .. PETITIONERS

Versus

THE STATE OF MAHARASHTRA & ANR.. RESPONDENTS

Mr. P.R. Pande for petitioners

Mr. M. S. Mhambre, APP

CORAM:-SMT. RANJANA DESAI &
ANOOP V. MOHTA, JJ.

DATED:-31/1/2007

P.C.

. The petitioners have inter alia prayed that order passed by the Metropolitan Magistrate's 31st Court, Vikhroli in C.C. Nos. 450 & 451/SS/2004 be stayed and Senior Inspector of Police, Vikhroli Park Site Police Station be directed to register the case of petitioners under Section 379, 468, 471 of Indian Penal Code against respondent 2 and her associates.

2. Admittedly in the complaint filed by respondent 2 under Section 138 of the Negotiable Instruments Act, petitioners have been convicted. Against the

said order the petitioners have preferred an appeal in the Sessions Court at Mumbai. Appeal has been admitted. The order of conviction and sentence has been stayed. Therefore, there is no question of this court staying the conviction and sentence.

3. Besides the subject matter of the present petition and the complaint filed by the 2nd respondent is the same. Since the appeal is pending, it is not possible for us to entertain this petition. The contention raised by the petitioners can always be agitated by them in the pending appeal before the Sessions Court.

4. Needless to say that the Sessions Court will deal with those contentions independently and in accordance with law. We have not expressed any opinion on them.

5. Petition is disposed of in the aforestated terms.

JUDGE.

JUDGE.